

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
ORANGEBURG DIVISION

Joshua Keaton Berryhill,	)	Case No. 5:20-cv-02322-DCC
	)	
Petitioner,	)	
	)	
v.	)	<b>ORDER</b>
	)	
Warden Phelps,	)	
	)	
Respondent.	)	
	)	

Petitioner, a federal prisoner proceeding pro se, is seeking habeas corpus relief pursuant to 28 U.S.C. § 2241. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.), this matter was referred to United States Magistrate Judge Kaymani D. West for pre-trial proceedings and a Report and Recommendation (“Report”). On September 21, 2020, Respondent filed a motion to dismiss and for summary judgment. ECF No. 24. Petitioner filed a response in opposition. ECF No. 31. On February 22, 2021, the Magistrate Judge issued a Report recommending that the motion to dismiss be granted and the petition be denied without prejudice. ECF No. 35. The Magistrate Judge advised Petitioner of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Petitioner has filed no objections, and the time to do so has passed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final

determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

After considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the Report’s recommendation; accordingly, the motion to dismiss [24] is **GRANTED** and the petition is **DENIED** without prejudice.

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.  
United States District Judge

April 29, 2021  
Spartanburg, South Carolina